IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

THURSDAY, THE 7TH JUNE 2007 / 17TH JYAISHTA 1929

OP.No. 28881 of 2001(L)

PETITIONER:

K.A. MAHESH, S/o V.APPUKUTTAN
KANNIYARKUNNATH HOUSE,
POST ANJUMOORTHY MANGALAM
PALAKKAD DISTRICT

BY ADV. SRI.T.M.ABDUL LATHEEF

RESPONDENTS:
---
1. STATE OF KERALA REPRESENTED BY THE
SECRETARY TO GOVERNMENT, MOTOR TRANSPORT
DEPARTMENT, THIRUVANANTHAPURAM
2. THE JOINT REGIONAL TRANSPORT OFFICER,
ALATHUR

BY GOVT PLEADER SRI BENNY GERVASIZ

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 07/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.S. RADHAKRISHNAN & ANTONY DOMINIC, JJ.

O.P. No 28881 of 2001

Dated: 7th June 2007

JUDGMENT

Radhakrishnan, J.

This original petition was preferred seeking a writ of mandamus directing the respondents to register the petitioner's lorry covered by Ext. P1 invoice and Ext. P2 as tipper lorry and to issue permit as goods vehicle and also for other consequential reliefs. Learned single judge was not impressed by the contention raised by the petitioner and expressed the view that the original petition was liable to be dismissed. However, learned judge noticed that in a similar case, W.P.C. No 28135 of 2003 another learned judge has taken a different view and W. A.No 2085 of 2003 was preferred against that judgment. In such circumstances, this matter has been referred to Division Bench for appropriate orders. W.A.No 2085 of 2003 has already been disposed of by another Division Bench of this court on 13.02.2006. In such circumstances, we are inclined to dispose of the

original petition with a direction to the respondents to examine the claim of the petitioner in the light of the Division Bench judgment. It is submitted that on the strength of the interim order the vehicle has been converted and registered as tipper lorry. This would be subject to the orders to be passed by the respondents as directed above. The original petition is disposed of as above.

Sd/-
K.S. RADHAKRISHNAN
Judge

Sd/-
ANTONY DOMINIC
Judge

07/06/2007en

[true copy]

Order on C.M.P.No 46981 of 2001
in OP 28881 of 2001

Dismissed.

Id./- K.S. Radhakrishnan, Judge
Id./- Antony Dominic, Judge

7/6/2007

[true copy]

APPENDIX

Petitioner's exhibits:

Petitioner's exhibits:
Ext.P1 - True copy of the invoice No D60058 dated 25.8.2001 of T.V.Sundaram Iyengar & Sons Ltd, Kochi
Ext.P2 - True copy of the temporary certificate of Registration No 2408/2001 dated 25.8.2001 issued to the petitioner by the second respondent
Ext.P3 - True copy of the application submitted by the petitioner before the second respondent dated Nil
Ext.P4 - True copy of the Goods Carriage Permit No C1/24133/2000 /EP dated 28.12.2000 issued to V.S Romiyo by the Joint Regional Transport Officer, Perumbavoor
Ext.P5 - True copy of the Certificate of Variation of permit No R2 01725/2000/EP dated 2.2.2000 issuedby the Joint Regional Transport Officer, Perumbavoor

Respondent's exhibits:

Ext R2(a) True copy of the amendment of Sec 52 dated 11.8.2000

[true copy]